Remarks

The Office Action dated February 4, 2008, has been received and reviewed. Each of claims 1-28 stands rejected. It is proposed that each of claims 1, 13, 14, and 23 be amended as hereinabove set forth. Reconsideration of the present application in view of the proposed amendments and the following remarks is respectfully requested.

Support for Claim Amendments

Each of independent claims 1, 13, 14, and 23 have been amended herein. Support for the claim amendments may be found in the Specification, for example, at paragraphs [0034]-[0036], [0038], and [0040]. As such, it is respectfully submitted that no new matter has been added by way of the present amendments to the claims.

Rejections based on 35 U.S.C. § 103

A.) Applicable Authority

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP §2143 through §2143.03. In order "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)". MPEP §2143. Further, in establishing a *prima facie* case of

obviousness, the initial burden is placed on the Examiner. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972, (Bd. Pat App. & Inter. 1985)." *Id.* *See also* MPEP §706.02(j) and §2142. Recently, the Supreme Court elaborated, at pages 13-14 of *KSR*, it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application]." *KSR v. Teleflex,* 127 S. Ct. 1727 (2007).

B.) Obviousness Rejection Based on U.S. Publication No. 2002/0004827 ("Ciscon") in view of U.S. Publication No. 2004/0181476 ("Smith").

Claims 1-4, 9-10, 13-15, 17, 23-24, and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0004827 to Ciscon et al. (hereinafter "Ciscon"), in view of U.S. Publication No. 2004/0181476 to Smith et al. (hereinafter "Smith"). Applicants respectfully traverse this rejection because the prior art does not teach or suggest each limitation of independent claims 1, 13, 14 and 23.

Independent claims 1, 13, 14, and 23, as proposed to be amended herein, are directed to a carrier virtual network interface system to allow an accessing telecommunication network managed by a network management system to indirectly manage the layer one resources dedicated to a carrier virtual network. Each of claims 1, 13, 14, and 23 includes dedicated layer

one resources of the dedicating telecommunication network that are freely accessible to the accessing telecommunication network such that the network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network.

Unlike Ciscon and Smith, the claimed invention of independent claims 1, 13, 14, and 23 include dedicated layer one resources of the dedicating telecommunication network that are freely accessible to the accessing telecommunication network such that the network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network. A carrier virtual network comprises a network of shared layer one telecommunication resources. *See Specification* at ¶ [0034]. Such a carrier virtual network allows a telecommunication network to access the layer one resources of another telecommunication network to provide telecommunication services. *Id.* at ¶ [0014]. Accordingly, a carrier virtual network enables a telecommunication network to use under utilized and unutilized layer one telecommunication resources of other service providers' networks. *Id.* at ¶ [0014].

Ciscon, on the other hand, discusses a control system that is "capable of recognizing that communication resources . . . may be shared or exclusive. Accordingly, the network monitor . . . correlates the information of the various communication links . . . and presents it to the resource database . . . in a logical manner. For example, the network monitor . . . may need to combine information from communication resources at multiple OSI layers or combine information from communication resources in the same OS layer." *See* Ciscon, at ¶ [0050].

While Ciscon mentions recognizing that communication resources may be shared, it is respectfully submitted that Ciscon does not disclose dedicated layer one resources of a dedicating telecommunication network that are *freely accessible* to *an accessing telecommunication network* such that a *network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network*, as recited in independent claims 1, 13, 14, and 23, as proposed to be amended herein. Rather, Ciscon merely mentions that a control system is capable of recognizing that communication resources may be shared. Recognizing that communication resources may be shared, however, does not teach or suggest dedicated layer one resources of a dedicating telecommunication network that are freely accessible to an accessing telecommunication network such that a network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network.

Further, Smith fails to overcome the deficiencies of Ciscon. Smith discusses provisioning servers. *See* Smith at ¶ [0079]. While Smith mentions provisioning, Smith fails to teach or suggest dedicating telecommunication network that are *freely accessible* to *an accessing telecommunication network* such that a *network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network*, as recited in independent claims 1, 13, 14, and 23, as proposed to be amended herein.

Accordingly, Ciscon and Smith, individually and in combination, fail to teach or suggest all the limitations of independent claims 1, 13, 14, and 23, as proposed to be amended

herein. Accordingly, for at least the reasons set forth above, the obviousness rejection of claims 1, 13, 14, and 23 should be withdrawn.

Dependent claims 2-4, 9-10, 15, 17, 24, and 26 further define novel features of the claimed embodiments and each depend either directly or indirectly, from one of the independent claims 1, 13, 14, and 23. Accordingly, for at least the reasons set forth above with respect to independent claims 1, 13, 14, and 23, dependent claims 2-4, 9-10, 15, 17, 24, and 26 are believed to be in condition for allowance by virtue of their dependency. *See, In re Fine*, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988); *see also*, MPEP § 2143.01. As such, withdrawal of the obviousness rejection of dependent claims 2-4, 9-10, 15, 17, 24, and 26 is respectfully requested.

C.) Obviousness Rejection Based on U.S. Publication No. 2002/0004827 ("Ciscon") in view of U.S. Publication No. 2004/0181476 ("Smith") in further view of U.S. Publication No. 2006/0248205 ("Randle").

Claims 5, 6, 11-12, 18-19, 21-22, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0004827 to Ciscon et al. (hereinafter "Ciscon"), in view of U.S. Publication No. 2004/0181476 to Smith et al. (hereinafter "Smith"), in further view of U.S. Publication No. 2006/0248205 to Randle et al. (hereinafter "Randle"). Applicants submit that a *prima facie* case of obviousness for the rejection of claims 5, 6, 11-12, 18-19, 21-22, 27, and 28 under § 103 (a) has not been established.

As Ciscon, Smith, or Randle, either alone or in combination, fail to teach or suggest all of the claimed features of claims 5, 6, 11-12, 18-19, 21-22, 27, and 28, Applicants traverse the rejection. As discussed above, the Ciscon and Smith references fail to teach or suggest all of the claimed features of the rejected independent claims 1, 13, 14, and 23 from which claims 5, 6, 11-12, 18-19, 21-22, 27, and 28 depend.

In addition, Randle also fails to teach or suggest all of the claimed features of the rejected independent claims from which 5, 6, 11-12, 18-19, 21-22, 27, and 28 depend. Although Randle discusses a secure service network, the Randle reference does not teach or suggest dedicating telecommunication network that are *freely accessible* to *an accessing telecommunication network* such that a *network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network*.. Rather, the Randle reference discusses a secure service network. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of claims 5, 6, 11-12, 18-19, 21-22, 27, and 28 is respectfully requested. Claims 5, 6, 11-12, 18-19, 21-22, 27, and 28 are believed to be in condition for allowance and such favorable action is requested.

D.) Obviousness Rejection Based on U.S. Publication No. 2002/0004827 ("Ciscon") in view of U.S. Publication No. 2004/0181476 ("Smith") in further view of U.S. Publication No. 2002/0174207 ("Battou").

Claims 7-8, 16, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0004827 to Ciscon et al. (hereinafter "Ciscon"), in view of U.S. Publication No. 2004/0181476 to Smith et al. (hereinafter "Smith"), in further view of U.S. Publication No. 2002/0174207 to Battou (hereinafter "Battou"). Applicants submit that a *prima facie* case of obviousness for the rejection of claims 7-8, 16, and 25 under § 103 (a) has not been established.

As Ciscon, Smith, or Battou, either alone or in combination, fail to teach or suggest all of the claimed features of claims 7-8, 16, and 25, Applicants traverse the rejection. As discussed above, the Ciscon and Smith references fail to teach or suggest all of the claimed

features of the rejected independent claims 1, 13, 14, and 23 from which claims 7-8, 16, and 25 depend.

In addition, Battou also fails to teach or suggest all of the claimed features of the rejected independent claims from which claims 7-8, 16, and 25 depend. Although Randle discusses a hierarchical network management system, the Battou reference does not teach or suggest dedicating telecommunication network that are *freely accessible* to *an accessing telecommunication network* such that a *network management system of the accessing telecommunication network can provision the dedicated layer one resources as if part of the accessing telecommunication network.*. Rather, the Battou reference merely discusses a hierarchical network management system. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of claims 7-8, 16, and 25 is respectfully requested. Claims 7-8, 16, and 25 are believed to be in condition for allowance and such favorable action is requested.

E.) Obviousness Rejection Based on U.S. Publication No. 2002/0004827 ("Ciscon") in view of U.S. Publication No. 2004/0181476 ("Smith") and U.S. Publication No. 2006/0248205 ("Randle") in further view of U.S. Publication No. 2002/0174207 ("Battou").

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0004827 to Ciscon et al. (hereinafter "Ciscon"), in view of U.S. Publication No. 2004/0181476 to Smith et al. (hereinafter "Smith"), and U.S. Publication No. 2006/0248205 to Randle et al. (hereinafter "Randle"), in further view of U.S. Publication No. 2002/0174207 to Battou (hereinafter "Battou"). Applicants submit that a *prima facie* case of obviousness for the rejection of claim 20 under § 103 (a) has not been established.

As Ciscon, Smith, Randle, or Battou, either alone or in combination, fail to teach or suggest all of the claimed features of claim 20, Applicants traverse the rejection. As discussed

above, the Ciscon, Smith, Randle, and Battou references fail to teach or suggest all of the claimed features of the rejected independent claim 14 from which claim 20 depends. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of claim 20 is respectfully requested. Claim 20 is believed to be in condition for allowance and such favorable action is requested.

CONCLUSION

For at least the reasons stated above, claims 1-28 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned at 816-474-6550 to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 21-0765, referencing Attorney Docket No. 2379/SPRI.105805.

Respectfully submitted,

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